

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOSE MANUEL FERNANDES,)
Petitioner,)
)
v.) C.A. No. 04-10223-MLW
)
BRUCE CHADBOURNE and)
ANDREA CABRAL,)
Respondents.)

ORDER

WOLF, D.J.

March 5, 2004

On February 2, 2004, petitioner Jose Manuel Fernandes, an immigration detainee currently confined at Suffolk County House of Correction (South Bay), filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. §2241 (Docket No. 1). He asserted that he was being held in violation of the Constitution and laws of the United States. He also requested that his removal from this country be stayed. In a February 4, 2004 Order, the court ordered that the petition be served and that the government file a response to the petition and request for stay (Docket No. 3). On February 9, 2004, the respondents filed a Motion to Dismiss For Failure to State a Claim Upon Which Relief May Be Granted and Opposition to the Petitioner's Request For Stay (Docket No. 7).

The petitioner has filed a Motion to Reopen with the Immigration Court. On February 25, 2004, Immigration Judge Patricia Sheppard entered an Order staying the deportation until determination of the Motion to Reopen.

Accordingly, it is hereby ORDERED that:

1. Petitioner's request for an emergency stay of removal is hereby DENIED as moot.
2. Petitioner's Petition for Habeas Corpus is hereby STAYED, pending completion of Immigration Court proceedings.
3. Within thirty days of the conclusion of proceedings in the Immigration Court, the parties shall file a status report in this court stating whether further proceedings on the petition for habeas corpus are necessary. The stay will then be terminated.
4. In any event, the parties shall, by September 30, 2004, report concerning the status of the Immigration Court proceedings.

UNITED STATES DISTRICT JUDGE